



# MIAMI BEACH

OFFICE OF THE CITY MANAGER

## COMMITTEE MEMORANDUM

TO: **Neighborhood/Community Affairs Committee**

Commissioner Edward L. Tobin, Chair  
Commissioner Jerry Libbin, Vice-Chair  
Commissioner Jorge Exposito, Member  
Commissioner Jonah Wolfson, Alternate

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: MEETING OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE (NCAC) ON  
MONDAY, SEPTEMBER 30, 2013

A meeting of the Neighborhood/Community Affairs Committee has been scheduled for Monday, September 30, 2013 at 2:00pm in the City Manager's Large Conference Room, 4<sup>th</sup> Floor of City Hall.

The agenda for the meeting is as follows:

### **OLD BUSINESS**

1. **Discussion Regarding The Placement Of A Plaque At The Flamingo Park Tennis Facility Commemorating Mr. Jerry Moss And His Tremendous Contribution To Tennis On Miami Beach.**

*Commission Item C4A, March 10, 2010  
(Requested by Commissioner Wolfson)*

John Rebar, Parks and Recreation Department Director

2. **Discuss The Log Cabin Property And The Possibility Of A Collaborative Community Center.**

*Commission Item C4K, July 18, 2012  
(Requested by Commissioner Tobin)(Deferred at the May NCAC meeting)  
Last discussed at the July 29, NCAC meeting.*

Max Sklar, Tourism and Cultural Development Director

3. **Discussion Regarding Potential Options For Collins Canal Project.**

*Commission Item, C4E, December 12, 2012  
(Requested by Commissioner Tobin)*

Eric Carpenter, Public Works Director & Jose Gonzalez, Transportation Manager

4. **Discussion Regarding The Conditions Of South Pointe Park.**

*Commission Item C4M, February 6, 2013  
(Requested by Vice-Mayor Gongora)*

John Rebar, Parks & Receptions Director

*We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.*

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5. **A Discussion Regarding Criminal Background Checks For Employees Of City Contractors And Spot Check Updates For Those Background Checks**  
Commission Item C40, February 6, 2013

Alex Denis, Procurement Director

6. **Discussion Regarding Sightseeing And Tour Bus Industry Regulations.**  
Commission Item, C4E, March 13, 2013  
(Requested by

Saul Frances, Parking Director

7. **Discuss A Potential Public Basketball Court To Be Located Between 8<sup>th</sup> and 9<sup>th</sup> Streets, West Of The Dune, Near The Exercise Equipment.**  
Commission Item C4L, June 5, 2013  
(Requested by Commissioner Libbin)

Eric Carpenter, Public Works Director

8. **Discussion Regarding The Continuation Of The Adopt A Beach Pilot Program.**  
Commission Item C4C, April 17, 2013  
(Requested by Commissioner Exposito)

Eric Carpenter, Public Works Director

#### **NEW BUSINESS**

9. **Discussion Regarding The Permanent Closure Of The 400 Block Of Espanola Way Between Washington Avenue And Drexel Avenue**  
Commission Item, C4B September 11, 2013  
(Requested By Public Works)

Jose Gonzalez, Transportation Manager

10. **Discussion regarding Recycling Ordinance Amendment Recommended By The Sustainability Committee, Which Changes The Number Of Multifamily Units Required To Recycle From Nine Or More Units To Two Or More Units**  
Commission Item C4P, September 11, 2013  
(Requested By Commissioner Jerry Libbin)

Eric Carpenter, Public Works Director

11. **Discussion Regarding A Barrier With Foliage Be Installed By FDOT In The Meridian On 41<sup>st</sup> Street From Alton Road To Meridian Avenue Within Two Years From The Completed FDOT Traffic Study**  
Commission Item R9N, September 11, 2013  
(Requested By Commissioner Michael Gongora)

Jose Gonzalez, Transportation Manager

12. **Discussion Regarding The Normandy Shores North Guardhouse On Bay Road**  
Commission item,  
(Requested by Commission Ed Tobin)

Eric Carpenter, Public Works Director

c: Mayor and Members of the City Commission  
Jimmy L. Morales, City Manager  
Jose Smith, City Attorney  
Jose Jimenez, Assistant City Manager  
Kathy G. Brooks, Assistant City Manager  
Mark Taxis, Assistant City Manager  
Eric Carpenter, Public Works Director  
Marcia Monserrat, Special Projects Administrator  
Rafael E. Granado, City Clerk  
Mariano Fernandez, Building Department Director  
Richard Lorber, Planning & Zoning Manager  
Hernan Cardeno, Code Compliance Division Commander  
Alexis Denis, Procurement Director  
Barbara Hawayek, Customer Service Manager

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding The Placement Of A Plaque At The Flamingo Park Tennis Facility  
Commemorating Mr. Jerry Moss And His Tremendous Contribution To Tennis On Miami  
Beach.**

*Commission Item C4A, March 10, 2010  
(Requested by Commissioner Wolfson)*

John Rebar, Parks and Recreation Department Director

**ITEM #1**





# MIAMI BEACH

## MEMORANDUM

TO: Neighborhood/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30<sup>th</sup>, 2013

SUBJECT: **Discussion Regarding The Placement Of A Plaque At The Flamingo Park Tennis Facility Commemorating Mr. Jerry Moss and His Tremendous Contribution To Tennis On Miami Beach**

### Background

Jerry Moss has made a significant impact on the tennis community of Miami Beach. His successes are many, both on and off the court. One of his many acknowledgments includes being a member of the University of Miami's Sports Hall of Fame. Below is a brief biography from the hall of fame.

*Jerry Moss began playing tennis at the early age of 7, table-tennis that is. Two years later, after winning tournaments at Flamingo Park Tennis Center on Miami Beach, he felt it was only natural to move to tennis. He entered his first tournament at age 10, reaching the finals, and was just under 12 when he won his first national tournament, the Orange Bowl Junior Championship.*

*Jerry progressed through the junior ranks, U.S. Boys' Singles Champion (15 and Under), U.S. Singles and Doubles Champion (18 and Under), member of the U.S. Davis Cup team, until entering the University of Miami in 1958.*

*As a Hurricane he earned All-American honors two years, was team captain in 1959 and had a career record of 70-1 playing #1 singles and doubles. His biggest win came after leaving UM, when he defeated the worlds #1 ranked player, Rob Laver, in the 1961 Masters Championship.*

### Administration Update

In recognition of Jerry Moss' tremendous contribution to tennis on Miami Beach staff recommends a plaque named the Jerry Moss Wall of Honor or similar be placed on the Tennis Facility at Flamingo Park. The design of the plaque would be one which allows for the names of others to be placed on the "Honor List."

Staff also recommends the Tennis Advisor Committee discuss and recommend criteria for future persons to be considered for the honor.

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discuss The Log Cabin Property And The Possibility Of A Collaborative Community Center.**

*Commission Item C4K, July 18, 2012*

*(Requested by Commissioner Tobin)(Deferred at the May NCAC meeting)*

*Last discussed at the July 29, NCAC meeting.*

Max Sklar, Tourism and Cultural Development Director

**ITEM #2**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Members of the Neighborhood & Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **A DISCUSSION REGARDING THE EARLY TERMINATION OF THAT CERTAIN LEASE AGREEMENT, DATED JULY 20, 2006 BETWEEN THE CITY OF MIAMI BEACH (CITY) AND LOG CABIN ENTERPRISES, INC. (TENANT), FOR APPROXIMATELY 52,000 SQUARE FEET OF CITY-OWNED PROPERTY LOCATED AT 8108-8140 COLLINS AVENUE, MIAMI BEACH, FLORIDA 33141 (PROPERTY), HAVING AN EXPIRATION DATE OF JULY 31, 2015 AND CURRENTLY BEING USED TO PROVIDE VOCATIONAL TRAINING AND SUPPORT FOR DEVELOPMENTALLY DISABLED ADULTS; AND FURTHER DISCUSSION WITH RESPECT TO ALTERNATIVE USES FOR THE PROPERTY, AS MAY BE IN THE BEST INTEREST OF THE RESIDENTS OF THE CITY OF MIAMI BEACH.**

### **BACKGROUND**

#### **Log Cabin Training Center –**

The City of Miami Beach established and maintained the Log Cabin Training Center, located at 8128 Collins Avenue, from 1975 through 2005 as a service of the City designed to provide vocational training and support for developmentally disabled adults. The Center housed three programs: Adult Day Training (ADT), Supported Employment (SE) and Supported Independent Living (SIL). Although a separate entity and facility, the adjacent Log Cabin Nursery served as a sheltered work site to provide employment to the clients of the training center. In this way, the clients were able to implement the training they were receiving in the same proximity.

On March 10, 2005, the City issued a Request for Proposal (RFP) for an entity to assume the administration and management of the Log Cabin Training Center and its various programs. The Sunrise Community, Inc. submitted the first-ranked proposal to a Request for Proposal (RFP).

On July 6<sup>th</sup>, 2005, the City Commission approved the Administration's recommendation to proceed in entering into a management agreement with The Sunrise Community, Inc. However, after careful consideration and extensive review, and in light of their occupancy of a City-owned facility, the Administration recommended a lease agreement instead of a management agreement. The lease agreement incorporated the scope of services requested in the RFP and included specific language to ensure that existing programming and services remained consistent.

The first lease agreement with Sunrise Community Group, Inc. for the Log Cabin Training Center commenced on September 1, 2005 and was due to end on August 31, 2008. This lease terminated early and a second Lease Agreement was negotiated to allow the agreement to be



coterminous with the lease for the Log Cabin Nursery, and the tenant to provide improvements to the property. The second lease agreement commenced May 1, 2008 and ended on July 31, 2009.

#### **Log Cabin Nursery -**

The nursery, located at 8108-8140 Collins Avenue, served as part of the City of Miami Beach Activity Center from 1975 through 1983 as a service of the City designed to provide a sheltered work site for the developmentally disabled adults being trained at the Log Cabin Training Center located adjacent to the nursery. In 1983, the Miami Beach Activity Center incorporated as Log Cabin Enterprises, Inc, a not-for-profit entity, and was funded by the City through a Community Development Block grant until 2003. As a non-profit entity, Log Cabin Enterprises Inc. continued operations without City of Miami Beach funds through outside funding sources, fundraisers as well as retail sales. As a separate entity no longer affiliated with the City, Log Cabin Enterprises Inc. continued its work on the premises through a lease agreement with the City.

The lease agreement for the Log Cabin Enterprises, Inc., to operate the nursery was approved by the Commission. The City Commission waived by 5/7ths vote the competitive bidding and appraisal process as this entity had been operating for some time under the auspices of the City. This allowed the two entities to remain independent due to the relationship of client (training center clients) and provider (nursery sheltered worksite), while allowing the City the benefit and protection of a lease agreement.

The current lease agreement for the Log Cabin Nursery had an initial three year term, commencing August 1, 2006 and expiring on July 31, 2009, with two additional three year terms at the sole discretion of the City Manager ("Lease Agreement").

On July 1, 2007, the Log Cabin Enterprises ("Tenant") merged with the Sunrise Community Group, Inc. due to financial instability. The Log Cabin Enterprises Board of Directors were absorbed by the Sunrise Community Group, Inc., but remained the governing authority over the nursery's sheltered work program in order to sustain the independence of client and provider. The Sunrise Community Group, Inc. requested that the City terminate their lease early and enter into a new lease which would allow for improvements to the property by the Tenant, and allow both the lease for the Log Cabin Training Center (Classroom Building) and the lease for the Log Cabin Nursery (collectively "Demised Premises") to become coterminous, terminating on July, 31, 2009.

On April 22, 2009, pursuant to Resolution No. 2009-27048, the City executed Amendment No. 1 to the Lease Agreement, renewing the lease for the Log Cabin Enterprises, for its first three year renewal term, commencing August 1, 2009 and ending July 31 2012, and further increasing the size of the Demised Premises, by amending the Log Cabin Lease Agreement to include the Log Cabin Training Center. On or about July 17, 2012, pursuant to Amendment No. 2 to the Lease Agreement, the City granted Tenant its second three year renewal term, ending July 31, 2015.

On or about August 21, 2013, Tenant closed its doors and began moving its operations from the Log Cabin to other locations within the control of Tenant, due to Tenant's financial inability to continue operations at the Demised Premises. On September 13, 2013, the Tenant terminated its leasehold interest in the Demised Premises and transferred possession of the Demised Premises to the City.

## **ANALYSIS**

The parcel is 52,500 square feet with an educational classroom building and historic log cabin building. The Education Building is 2,370 square feet, the Log Cabin is 1,096 square feet (excluding the front and rear porch), and the Storage/Lounge Building is 936 square feet.

The following are alternative uses for the property available to the City:

- Assign Lease to the Miami Achievement Center for the Developmentally Disabled (MACTOWN): Mr. Clint Bower, President and CEO, approached the City through Sunrise Community, Inc., interested in assuming the lease and continuing to provide services for people with intellectual and developmental disabilities. MACTOWN is located in the City of Miami and has provided these services throughout Miami-Dade County for more than 50 years.
- Teen Club: The City's Parks and Recreation Department is seeking a location for a permanent dedicated teen club site to accommodate over 200 north beach teens. The Teen Club is proposed to include a Computer Lab and Learning Center, Video and Game Room, New Basketball Court, Environmental/Nursery/Botanical work and "green" enrichment program, Small Fitness Center.
- Skate Park: The City has been searching for a site for a permanent skate park and this location is large enough to accommodate such use.
- The Office of Community Services has several programs that service families in North Beach. The following is a summary of those programs and needs:
  - Success University may hold its Family Group Conferences at this location evenings and weekends.
  - Morning All Stars could hold programming afterschool, Saturdays and during the summer.
  - Parent-Child Home Program could use this space for parenting workshops evenings and weekends.
  - Community Services could use the space during periodic workdays to sponsor workshops geared to elder residents.
  - In addition, several of our Service Partnership colleagues have requested operating space within our City including Open Arms, Abriendo Puertas of Little Havana and Barry University.

The property does seem to have enough space to accommodate multiple uses. There are also potential synergies among uses. For example, a Teen Club and skate park would complement each other. The Administration is seeking direction from the Neighborhoods and Community Affairs Committee before preparing a more developed plan for the property.

JLM/KGB/MS/GNT

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Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding Potential Options For Collins Canal Project.**

Commission Item, C4E, December 12, 2012

(Requested by Commissioner Tobin)

Eric Carpenter, Public Works Director & Jose Gonzalez, Transportation Manager

**ITEM #3**





## COMMITTEE MEMORANDUM

TO: Neighborhood/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **DISCUSSION REGARDING POTENTIAL OPTIONS FOR COLLINS CANAL PROJECT**

### **BACKGROUND**

The Collins Canal Seawall and Dade Boulevard Shared-Use Path project has been substantially completed. The project included the construction of a new seawall along the north bank of Collins Canal and the addition of a shared-use path adjacent to the canal between 17<sup>th</sup> Street and Convention Center Drive.

As part of the construction, most of the landscape adjacent to the canal was removed to ensure that pedestrians and bicycles could use the shared-use path in accordance with the design standards. The vegetation along a section of approximately 650 feet between Alton Road and Meridian Avenue was the most impacted due to right-of-way constraints. As a means to mitigate the impact to the landscaping, and based on input received from the Greenspace-Tree Advocacy Group (GTAG), the City retained the services of Atkins North America Inc. to study the potential elimination of the left turn bay from eastbound Dade Boulevard into the Publix Supermarket driveway. The elimination of the left turn bay into the Publix driveway would allow a portion of Dade Boulevard to be shifted north in order to accommodate landscaping in the constrained section adjacent to Collins Canal; however, approval from Publix is required for such elimination. The traffic study was completed by Atkins in October 2012 and concluded that the potential elimination of left turn movements at the driveway would have minimal effect on the traffic operations at the intersections within the study area; however the accessibility limitations would affect some Publix patrons. In addition, the elimination of the left turn movements at the driveway may affect the safety of the Dade Boulevard corridor by potentially increasing illegal U-turns.

Following the completion of the traffic impact study for the elimination of the left turn bay into Publix Supermarket, the City developed a preliminary concept for a roundabout at the intersection of Dade Boulevard and Michigan Avenue. A roundabout at the intersection of Michigan Avenue and Dade Boulevard may improve the safety and operation of the intersection, allowing for all turning movements and improving accessibility into Publix Supermarket, particularly if the left turn bay into the Publix driveway is eliminated. Atkins North America Inc. was retained to complete a feasibility study for the roundabout at Michigan Avenue and Dade Boulevard. The study was completed in April 2013 and determined that the roundabout would be geometrically feasible and would improve the operational Level of Service (LOS) at the intersection.



## **ANALYSIS**

The Preliminary Traffic Report prepared by South Beach ACE/Tishman/UIA/OMA for the Miami Beach Convention Center (MBCC) Redevelopment Project identified Dade Boulevard as the primary access route into the MBCC from the north. The traffic report determined that Dade Boulevard is the only access roadway within the immediate vicinity with surplus capacity. City staff has provided the Tishman team with a copy of the Michigan Avenue and Dade Boulevard Roundabout Feasibility Study. The roundabout concept will be analyzed in detail as part of the final MBCC Transportation Plan to be prepared by South Beach ACE/Tishman/UIA/OMA..

## **CONCLUSION**

If the MBCC redevelopment project is approved, the transportation options for this area will be considered as part of the Final Transportation Plan for the MBCC project.

  
KGB/ETC/JRG/JFD

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# MIAMI BEACH

## MEMORANDUM

TO: Neighborhood/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30<sup>th</sup>, 2013

SUBJECT: **Discussion Regarding Conditions of South Pointe Park**

### **Administration Update**

The physical conditions of South Pointe Park remain unchanged. The issue of remediation is currently under litigation.

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding The Conditions Of South Pointe Park.**

Commission Item C4M, February 6, 2013

(Requested by Vice-Mayor Gongora)

John Rebar, Parks & Recreations Director

**ITEM #4**



MIAMI BEACH

MEMORANDUM

TO: Neighborhood/Community Affairs Committee  
FROM: Jimmy L. Morales, City Manager  
DATE: September 30<sup>th</sup>, 2013  
SUBJECT: **Discussion Regarding Conditions of South Pointe Park**

**Administration Update**

The physical conditions of South Pointe Park remain unchanged. The issue of remediation is currently under litigation.

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**A Discussion Regarding Criminal Background Checks For Employees Of City  
Contractors And Spot Check Updates For Those Background Checks**  
Commission Item C40, February 6, 2013

Alex Denis, Procurement Director

## **Supplemental**

**ITEM #5**

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding Sightseeing And Tour Bus Industry Regulations.**

Commission Item, C4E, March 13, 2013

(Requested by

Saul Frances, Parking Director

**ITEM #6**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Neighborhoods and Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **DISCUSSION REGARDING SIGHTSEEING AND TOUR BUS SERVICES FROM VARIOUS LOCATIONS IN THE CITY.**

### **BACKGROUND**

Sightseeing and tour bus services are a growing industry in the region, including Miami Beach. There are mainly two types of services currently in operation, (1) Hop-on/Hop-offs (HH) have multiple passenger loading areas along an established route; and (2) Entertainment Tours have one loading area (Miami-Dade County bus stops) where passengers load/unload at the same location.

This issue was referred to the Transportation and Parking Committee (TPC) and Neighborhoods and Community Affairs Committee (NCAC) by the City Commission at their regular meeting of March 13, 2013. The Administration held a workshop with the sightseeing and tour bus industry on Monday, June 24, 2013. The TPC discussed the item at their July 1, 2013 meeting.

### **Industry Workshop**

The Administration held a workshop with the tour bus and sightseeing industry on Monday, June 24, 2013. Representatives of both HH and entertainment tours were in attendance. After much discussion, the following points were supported by the industry:

- Competitive process for an exclusive provider for the City.
- Regulate industry.
- Two (2) kiosk locations in the City (Ocean Drive and Lincoln Road were suggested)

### **Transportation and Parking Committee**

On July 1, 2013, the Transportation and Parking Committee discussed the issue of sightseeing and tour buses. The TPC did not vote on the item; however, they provided a sentiment that the number of vehicles/operators should be limited; and ticket sales need to be regulated/controlled. The TPC requested that the issue be brought back before them after the NCAC has discussed the issue.

### **Hop-on/Hop-off Tours**

Hop-on/Hop-off (HH), also often known as Loop Tours, provide a quick and convenient way to get an overview of a city. They are frequently used by visitors on their first day or two in a new city as it quickly gives them an overview of how the area is laid out, while a tour guide provides



a history and interesting facts of the city as well. Typically, after seeing most of the major sites via the HH bus, tourists determine an itinerary for the rest of their stay, deciding which area of the city they want to visit again on their own. HH tours are also often used by visitors who only have a very short amount of time in an area as it enables them to cover a lot of ground in a short period of time and experience most of the major attractions of a city.

Gray Line Miami (Gray Line) began operating a HH sightseeing tour in Miami-Dade County in January 2010. The service is similar to other city sightseeing tours in New York, Chicago, Washington, D.C., San Francisco, Paris, and London, to name a few. The service runs daily, originating from their central station at Bayfront Park in Downtown, Miami, with two loops: the Beach Loop and City Loop. In order to start the tour service, Gray Line entered into an agreement with Miami-Dade Transit to use bus stops throughout Miami Beach and Miami-Dade County for each stop of the tour. In addition to those stops, the City currently provides Gray Line with a stop on Ocean Drive. Each stop on the tour is serviced on 60 minute intervals, allowing enough time to see points of interest or to patronize area businesses. While on the bus, participants also enjoy a multi-lingual, GPS triggered narration of the city. Additionally, Gray Line also sells tours offered by the Miami Design Preservation League (MDPL), boat/cruise tours, Everglades tours, and tickets to area museums and attractions.

Although there are many other types of tours offered in Miami, prior to Gray Line starting the HH city tour in January 2010, Greater Miami was one of the only major market cities in the United States that did not have a HH city tour. The service has been so well received by tourists that Gray Line has expanded their fleet of vehicles to include open-air double deck buses. These open-air double deck buses are themselves an attraction and commonly result in higher ridership once introduced into a market.

As a result of Gray Line's success, other HH services have established operations, these include City Sightseeing Miami, and Miami Sightseeing. Operators have independently approached the City about partnering to add kiosks at key locations in Miami Beach, to increase their visibility and ridership. In other cities with HH service, on-street kiosks are handled through a permit or license. However, in Miami Beach the City Code doesn't allow for the sale of goods or services from the public right-of-way. A concession agreement would be required if the City desired to offer this service.

### **Alternative No. 1 – Request for Proposals/Concession Agreement**

As tourism is vital to the economic well-being of the community, the City is constantly looking at opportunities to expand entertainment options for tourists and visitors. The Administration believes the issuance of a competitive bidding process such as a Request for Proposals (RFP) for a concession agreement to allow for a HH operator to install kiosks at various locations in the City is worth discussing. An RFP would also allow the operator to sell tickets for other tours and tourist attractions. The City is also considering including, as a second level of service, the inclusion of a nighttime circulator linking the 5<sup>th</sup> street and Alton Road garage with the entertainment district. This has long been discussed as an initiative that would activate the underutilized parking garage at 5<sup>th</sup> & Alton. Based on some preliminary research, staff believes this has the ability to generate additional revenue for the City while providing a valuable service for tourists. If an RFP were issued, the Administration would ensure that the 5<sup>th</sup> & Alton Garage service is a required to be provided by the successful proposer. Notices would be issued to all known companies providing such services.

**Finance and Citywide Projects Committee – December 16, 2010**

The item was initially discussed by the Committee at their December 16, 2010, meeting. At that time, members of the Committee cited concerns that the issuance of an RFP and resulting contract award could lead to litigation similar to that experienced by the City of Key West. The Committee directed staff to research the Key West case and to also provide additional information on potential revenue share projections if a concession agreement were executed.

**Duck Tours Seafari, Inc. v. City of Key West**

The City Attorney's Office researched the referenced litigation between Duck Tours and the City of Key West. Duck Tours was seeking to operate tours of Key West similar to their operations in other cities. Duck Tours operation included the pick-up of passengers from various sites for transport to the harbor, a "splash down" into the water, and the harbor tour. The City of Key West had a franchise agreements for sightseeing services with two sister entities: Conch Tour Train, Inc. and Buggy Bus, Inc., d/b/a Old Town Trolley, both owned by Historic Tours of America ("HTA"). These agreements were made by municipal ordinances that not only granted franchise status to the train and trolley tours, but prohibited the issuance of similar franchises to competitors. The ordinances also prohibited any sightseeing or shuttle company, other than the train and trolley tours, from having offices, depots, ticket sales booths, and/or passenger loading or unloading "stops" within 1,000 feet of Train and Trolley's existing depots. Duck Tours argued that this created a monopoly and violated the Commerce Clause of the United States Constitution.

**Finance and Citywide Projects Committee – January 27, 2011**

The City Administration and City Attorney's Office researched the referenced litigation between Duck Tours and the City of Key West and reported back to the Finance Committee at their January 27, 2011, meeting. The Administration clarified to the Finance Committee that the City has no intention of awarding an exclusive contract as part of a potential RFP. Therefore, the City Attorney's Office is comfortable with proceeding with a RFP should the City Commission decide to do so.

Commissioner Jerry Libbin raised concerns over allowing commercial sales in the public right-of-way and if this would set a precedent requiring the City to allow other types of street vendors. He was also concerned with the congestion that on-street kiosks may add to the City. The Committee referred the item to the Land Use & Development Committee and asked the City Attorney's Office to research allowing commercial sales in the public right-of-way.

**Potential Revenue**

The primary objective of the RFP would be to enhance and strengthen available offerings for visitors to the community. However, there is potential to also generate revenue for the City with the execution of a concession agreement. As such, the City would negotiate a percentage share of gross revenue from this concession agreement similar to other agreements entered into by the City. Based on preliminary research, a conservative estimate of 20,000 riders per year paying an average ticket price of \$35 with a 15% gross revenue share for the City could generate approximately \$105,000 per year from this concession.

### **Proposed Scope of Work**

If the Administration were directed to draft an RFP, the following is a draft of the proposed scope of services.

- The City will grant to the successful proposer, the right, during the Term of this Agreement, to manage and operate two (2) kiosks from designated locations throughout the City.
- The successful proposer must agree to manage and operate these kiosks and will be authorized to conduct the following kinds of business(es) within the Concession Areas, as provided below, all at its sole cost and expense:
  - Permitted Uses:
    1. Operate and manage up to two (2) kiosk locations in the City of Miami Beach, which shall sell and/or provide the following:
      - Hop-on Hop-off sightseeing tours
      - Other tours
      - Attractions
    2. Schedule of Operation:  
Successful proposer's operations shall be open seven days a week, 365 days a year, during agreed upon hours, weather or events of force majeure permitting.
- Security Deposit:  
Upon execution of the Agreement, the successful proposer shall furnish the City with a Security Deposit, as agreed to by the City. Said Security Deposit shall serve to secure successful proposer's performance in accordance with the provisions of the Agreement. In the event the successful proposer fails to perform in accordance with said provisions, the City may retain said Security Deposit, as well as pursue any and all other legal remedies as may be provided by applicable law.
- Minimum Guarantee:  
In consideration of the City executing the Agreement and granting the rights provided in the Agreement, the successful proposer shall pay to the City a Minimum Guaranteed Annual Concession Fee.
- Percentage of Gross:  
During the initial term, and any renewal term, of the Agreement, successful proposer shall pay the City a percentage of successful proposer's gross receipts. In the event that the annual gross receipts is less than the minimum guarantee amount provided in the Agreement, then the successful proposer shall also pay to the City, on an annual basis, the difference between the gross receipts amount and the minimum guarantee amount.  
  
In the event that the City, at its sole discretion, chooses to extend the term of this Agreement for any renewal term, the renewal term minimum guarantee shall be subject to negotiations.
- Term  
The Term of this Agreement will be for a period of three (3) years with the sole option and discretion of the City, to renew for an additional two (2), two year periods.



- Capital Improvements and Maintenance  
The City shall provide in an "as is" condition, the site(s) to the successful Proposer. The successful Proposer shall be responsible for the capital improvements of the site(s) and full maintenance in a satisfactory manner as determined by the City. The successful Proposer shall be required to design, provide and install all furnishings, fixtures, equipment, finishes, and signage necessary to manage and operate the site(s).

### **Alternative No. 2 – Regulate Industry/No Concession Agreement**

Allow market forces to dictate industry supply and demand. Some amendments to the City Code would be necessary, including licensing categories; use of right-of-way for passenger loading; ticket sales, and various other administrative and operational details.

The Administration researched sightseeing and tour bus regulations in other jurisdictions, including New York, Philadelphia, and Key West. The following is a draft of potential regulations that could be further developed:

#### **(1) Definitions.**

- (a) *Amphibious tour vehicle.* A motor-propelled vehicle capable of operating on land or water and operated on the streets for the purpose of carrying passengers for guided sightseeing tours.
- (b) *Department.* The City of Miami Beach Public Works Department
- (c) *Guided sight-seeing tour.* An organized trip that operates on a regular basis, that travels in a circuit in Miami Beach and provides information on historic sites and other places of interest in the City.
- (d) *Sidewalk.* All that area legally open to public use as a pedestrian public way between the curb line and the legal house line of the abutting property.
- (e) *Tour bus.* A motor bus operated on the streets for the purpose of carrying passengers for guided sight-seeing tours, but excluding publicly funded tours, buses and licensed charter bus carrier.
- (f) *Tour passenger loading zone.* All that area, not to exceed 40 feet in length as measured along the curblane, used by a tour bus or amphibious tour vehicle for the loading and unloading of passengers.
- (g) *Tour Passenger Carrier.* Any person who operates, on the streets of the City, a tour bus or amphibious tour vehicle.

(2) *Business Tax Receipt (BTR).* No tour passenger carrier shall operate in the City unless the tour passenger carrier obtains a BTR from the City.

- (a) Every BTR issued under this Section shall be issued as of the first day of October and shall be effective, unless suspended or revoked, until the last day of September of the next calendar year. BTR may be renewed in accordance with this Section for similar one (1) year periods.
- (b) A BTR shall permit the licensee to operate either tour buses or amphibious tour vehicles, but not both, and a tour passenger carrier who wishes to operate both tour buses and amphibious tour vehicles must obtain separate licenses for each operation.
- (c) All BTR issued under this Section shall permit the licensee to conduct licensed operations at the tour passenger loading zones designated under the permit as set forth in -----.
- (d) Every BTR shall be non-assignable and non-transferable.

(3) *BTR Issuance.* BTR shall be issued upon the following:

- (a) The applicant furnishes the following information:
  - (.1) the applicant's name, address and telephone number;
  - (.2) the category of tour vehicle (tour bus or amphibious tour vehicle);
  - (.3) the number of vehicles to be operated;
  - (.4) for every person that will be operating a tour bus or amphibious tour vehicle, the necessary vehicle operating license as applicable under Florida law and federal law;
  - (.5) the applicant's current and valid Florida sales tax identification number, and current and valid Florida business privilege license number;
  - (.6) the motor bus license for each vehicle;
  - (.7) an identifying description of each tour bus or amphibious tour vehicle used by the licensee;
  - (.8) each tour bus's or amphibious tour vehicle's motor vehicle registration number;
  - (.9) the applicant's proposed tour route;
  - (.10) schedule of rates to be charged per tour bus or amphibious tour vehicle. Rates for pre-sold and combination tour services shall be exempt from such filings.
- (b) The applicant pays a non-refundable application fee of \_\_\_\_\_ (\$\_\_\_\_) dollars, or such other amount as the Department may establish by regulation;

and

(c) Approval by the Department of the applicant's proposed tour route. The Department shall approve the applicant's proposed tour route if the Department finds that the route is safe and that it does not unreasonably hinder traffic flow. If the Department disapproves the applicant's proposed tour route, the Department shall notify the applicant in writing of the reasons for disapproval and request the applicant to submit a different tour route for approval. The Department may also, in such written notification, suggest alternate routes that would be approved;

(d) The applicant obtains approval from the City's Parking Department for at least one tour passenger loading zone or demonstrates the ability to load or unload passengers without using the public right-of-way for periods in excess of fifteen (15) minutes;

(e) The applicant, after being notified by the Department that his/her application has been provisionally approved:

- (.1) agrees to the approved tour route pursuant to subsection \_\_\_\_\_ and the tour passenger loading zones pursuant to subsection \_\_\_\_\_; and
- (.2) pays an initial right-of-way fee of \_\_\_\_\_ (\$\_\_\_\_), or such other amount as the Department may establish by regulation.

(4) *License Renewal; Change of License Information.*

(a) The Department shall send to each person licensed under this Section, at a time reasonably in advance of the end of each license year, a renewal license. The licensee must return the renewal license to the Department, together with payment of the annual renewal fee of - \_\_\_\_\_ (\$-----) dollars, or such other amount as the Department may establish by regulation, and a statement of the changes, if any, in the license information required by subsection \_\_\_\_\_. If the licensee proposes a new tour route, the Department must approve the new route prior to BTR renewal. The Department shall then validate the renewal BTR and return it, together with a new BTR, to the licensee, who shall thereby be approved for the succeeding year.

(b) Licensees must, during the license year, notify the Department in writing of any change in the information required by subsection \_\_\_\_\_, within thirty (30) days of such change.

(c) Every BTR shall be non-assignable and non-transferable.

(5) *Alteration of Routes.* No Tour Passenger Carrier shall utilize a route other than that route approved under subsection \_\_\_\_\_ without written permission from the Department unless the approved route is impassable, in which case deviations from the approved route may occur for no longer than a 12 hour period. If deviation from the approved route is necessary for more than one calendar day, the Tour Passenger Carrier must notify the Department in writing within 24 hours of the beginning of such deviation of a proposed alternate route. The Department shall notify the Tour Passenger Carrier within 72 hours if the application for alteration of routes is approved. If the Department fails to notify the Tour Passenger Carrier within 72 hours, the application for alteration of routes will be deemed approved.

(6) *Rates.* The rates charged by a tour passenger carrier shall not exceed the rates filed with the application for such tour bus or amphibious tour vehicle, or as subsequently amended, and shall show the charges for a guided sight-seeing tour on each day that the tour passenger carrier operates. Where different rates are made for weekend, weekday and holiday tours, such different rates shall be shown.

(7) *Prohibition on Loading and Unloading Passengers.* No tour bus or amphibious tour carrier shall load or unload from the public right-of-way at any location other than a universal tour passenger loading zone, a designated bus stand, or at a tour passenger loading zone for which the carrier obtains a permit from the Department.

(8) *Tour Passenger Loading Zone Locations.*

a) The Department may approve tour passenger loading zones only on the following block faces and only where the Department finds that the location is safe and does not unreasonably hinder traffic flow:

(.1) The east and west sides of Washington Avenue between 5<sup>th</sup> Street and Dade Boulevard. No more than four (4) tour passenger loading zones may be approved.

(.2) The east and west sides of Collins Avenue between 5<sup>th</sup> Street and Espanola Way. No more than two (2) tour passenger loading zones may be approved.

(.3) The north and south sides of Fifth Street between Alton Road and Collins Avenue. No more than two tour passenger loading zones may be approved (one on the north side and one on the south side).

(.4) The north side of Lincoln Road between Washington Avenue and Collins Avenue. No more than one tour passenger loading zones may be approved.

(b) The Department shall not approve any loading zone at any of the following locations:

(.1) at any location that would reduce the unobstructed pedestrian right-of-way to less than six and one-half feet, such width not to include the width of any grate;

(.2) on medians of divided highways;

(.3) on any portion of a sidewalk directly in front of any building entrance, loading dock or loading ramp;

(.4) within twenty feet upstream (in the direction from which vehicular traffic in the nearest curbside lane approaches) of any bus stop zone;

(.5) within ten feet of a fire hydrant;

(.6) within twenty feet upstream of any mid-block crosswalk;

(.7) within fifteen feet of any alley or driveway; or

(.8) a location designated by the Department to be a universal tour passenger loading zone.

(c) The Department shall maintain and make available for public inspection during regular business hours a complete list of all permitted tour passenger loading zones as



designated in subsection (a) and universal tour passenger loading zone locations as designated in \_\_\_\_\_.

(9) *Permit Issuance.* Passenger Loading Zone Permits shall be issued upon compliance with the following:

- (a) The applicant furnishes the following information:
  - (.1) The applicant's name, address and telephone number; and
  - (.2) The location of the applicant's proposed tour passenger loading zone;
- (b) The applicant pays a non-refundable application fee of \_\_\_\_\_ (\$\_\_\_\_\_) dollars, or such other amount as the Department may establish by regulation; and
- (c) The applicant, after being notified by the Department that his application has been provisionally approved:
  - (.1) agrees to the approved tour passenger loading zones; and
  - (.2) pays the initial monthly permit fee of \_\_\_\_\_ (\$\_\_\_\_\_) dollars, or such other amount as the Department may establish by regulation.

(10) *Assignment, Renewal and Use of Passenger Loading Zones.*

- (a) Permits for particular tour passenger loading zones shall be granted as follows:
  - (.1) Applicants who have continuously conducted tour operations on a blockface for at least two (2) years from before the date this Section became law shall receive first preference for a loading zone permit on such blockface. Applicants shall be ranked according to the number of years, months, and days (months and days, if necessary) they have continuously conducted permitted tour operations on such blockface.
  - (.2) If the maximum number of tour passenger loading zones on a particular blockface is not filled by the procedure set forth in subsection \_\_\_\_\_, then any additional applicants for a permit on such blockface shall be ranked according to the amount of time they have continuously conducted tour operations in the City.
  - (.3) Any tour passenger loading zone that is not filled by the procedures set forth in subparagraphs \_\_\_\_\_ or \_\_\_\_\_ sixty (60) days after this ordinance becomes law, then such tour passenger loading zones shall be deemed as vacant. Vacant tour passenger loading zones shall be assigned to qualified applicants in the order received.
  - (.4) For any additional tour passenger loading zones created subsequent to enactment of this legislation, permits shall be issued to the first applicant submitting a complete application.
  - (.5) In order to apply for a permit, receipt of which would otherwise create a violation of another provision of this subsection, an operator may agree to relinquish the then currently permitted location upon receipt of a permit for a new location.
- (b) Reserved.
- (c) Reserved.
- (d) Every permit issued under this Section shall be effective, unless suspended or revoked, until the last day of September of the next calendar year, and shall be renewed on an annual basis for one year periods beginning October 1. Permits that are renewed shall permit the licensee to continue to load from the same tour passenger loading zone as designated in the permit being renewed.
- (e) Issuance of a permit for a particular location is not a guarantee that such location will remain a permitted tour passenger loading zone location for the duration of the permit or any renewal periods. The City Commission may by resolution remove a location from



the list of designated locations. If the City Commission removes a location from the list of designated locations, the tour passenger carrier permitted to use such location must apply to the Department for a new location in accordance to Department regulations. If no tour passenger loading zone is available, the Department shall refund the tour passenger carrier's permit fee.

(f) Any tour passenger loading zone location that is not utilized for fourteen (14) consecutive days between November 1 and January 31 shall be considered vacant and the permit shall be revoked. Vacant tour passenger loading zones shall be made available to qualified applicants as set forth in subsection \_\_\_\_\_.

(g) Copies of permits issued under this Section must be carried on the tour bus or amphibious tour vehicle at all times and available for inspection by the appropriate city official.

*(11) Passenger Loading Zone Permit Renewal; Change of Permit Information.*

(a) The Department shall send to each person permitted under this Section, at a time reasonably in advance of the end of each permit year, a renewal permit. If the permittee returns the renewal permit to the Department, together with payment of the annual renewal fee of \_\_\_\_\_ (\$-----) dollars, or such other amount as the Department may establish by regulation, and a statement of the changes, if any, in the permit information required by subsection \_\_\_\_\_, the Department shall then validate the renewal permit and return it, together with a new permit, to the permittee, who shall thereby be permitted for the succeeding permit year.

(b) Permittees must, during the permit year, notify the Department in writing of any change in the information required by subsection \_\_\_\_\_, within thirty (30) days of such change.

*(12) Universal Tour Passenger Loading Zones.* The Department may designate universal tour passenger loading zones by regulation. A tour bus may load or unload passengers at such locations.

(a) No vehicle without a Tour Passenger Carrier permit may utilize a universal tour passenger loading zone.

(b) No tour bus or amphibious tour vehicle may stand in a universal tour passenger loading zone for longer than ten (10) minutes.

*(13) Tour Passenger Carrier Safety Reports.*

(a) Prior to October 1 of each year, each Tour Passenger Carrier must submit a written safety report to the Department that includes:

(.1) The number and nature of all traffic violations, if any, received by the Tour Passenger Carrier or any agent or employee acting on behalf of the Tour Passenger Carrier during the previous calendar year;

(.2) All vehicular accident reports, including maritime reports, if any, that involved a Tour Bus or Amphibious Tour Vehicle operated by the Tour Passenger Carrier;

(.3) The number and nature of any injury received by a customer of the Tour Passenger Carrier during the previous calendar year;

(.4) All other violations issued to the Tour Passenger Carrier or any agent or employee acting on behalf of the Tour Passenger Carrier under the City of Miami Beach, Miami-Dade County, State of Florida, or Federal statutes;

(.5) The total number of vehicles operated by the Tour Passenger Carrier during the previous calendar year; and

(.6) The total number of passengers carried by the Tour Passenger Carrier

during the previous calendar year.

(.7) The total number of guided sight-seeing tours conducted by the Tour Passenger Carrier during the previous calendar year.

(b) Prior to the first day of October of each calendar year, the Department will release a Tour Passenger Carrier Safety Report to the public that includes, at minimum:

(.1) The ratio of the number and nature of all traffic violations, if any, received by the Tour Passenger Carrier or any agent or employee acting on behalf of the Tour Passenger Carrier during the previous calendar year compared to the total number of guided sight-seeing tours operated by the Tour Passenger Carrier during the previous calendar year;

(.2) The ratio of all vehicular accidents, including maritime reports, if any, during the previous calendar year that involved a Tour Bus or Amphibious Tour Vehicle operated by the Tour Passenger Carrier, including the number of accidents; the location of each accident; the number and nature of injuries, if any, sustained in each accident; and the number of vehicles involved compared to the total number of guided sight-seeing tours operated by the Tour Passenger Carrier during the previous calendar year;

(.3) The ratio of the number and nature of any injury received by a passenger of the Tour Passenger Carrier, if any, during the previous calendar year compared to the total number of passengers carried by the Tour Passenger Carrier during the previous calendar year; and

(.4) The ratio of all other violations issued to the Tour Passenger Carrier or any agent or employee on behalf of the Tour Passenger Carrier under applicable City of Miami Beach, Miami-Dade County, State of Florida, or Federal statutes compared to the total number of guided sight-seeing tours operated by the Tour Passenger Carrier during the previous calendar year.

(14) *Trash Removal and Clean Up.* Tour passenger carriers are responsible for maintaining the sidewalk within fifteen feet of their tour passenger loading zone clean of all trash generated by their tour operations.

(15) *Other Prohibited Conduct.* No tour passenger carrier or its agent or employee shall:

(a) conduct himself or his business in such a way as would restrict or interfere with the ingress or egress of the property of the abutting property owner or tenant, or in such a way as would create or become a nuisance or hazard to public health, safety or welfare, or increase traffic congestion or delay, or constitute an obstruction to adequate access to fire, police, or sanitation vehicles;

(b) leave any vehicle unattended at any time;

(c) violate any provision of The Miami Beach Code;

(d) solicit ticket sales from the public in an aggressive manner, or accompanied by conduct including but not limited to repeated or insistent solicitations, retaliatory comments, blockage of free passage of a pedestrian, touching or yelling at a pedestrian, confrontation or intimidation;

(e) solicit for any service or product other than tickets and related services provided by the specified tour passenger carrier.

(f) Sell tickets or any other service or product from the sidewalk in the area bounded on -  
-----, unless specifically authorized by ordinance.

*(16) Penalties, License Suspension, Revocation, and Loss of Permitted Tour Passenger Loading Zone Location.*

(a) The penalty for violation of any provision of this Section is, in addition to any other sanctions provided, a fine not less than \_\_\_\_\_ (\$\_\_\_\_\_) dollars and not to exceed the Maximum Fine Amount, as defined herein, for each offense. For purposes of this subsection, the "Maximum Fine Amount" shall be \_\_\_\_\_ dollars (\$\_\_\_\_\_) for violations committed during calendar year 2014; \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for violations committed during calendar year 2015; \_\_\_\_\_ dollars (\$\_\_\_\_\_) for violations committed during calendar year 2016; \_\_\_\_\_ dollars (\$\_\_\_\_\_) for violations committed during calendar year 2017; and \_\_\_\_\_ dollars (\$\_\_\_\_\_) for violations committed thereafter.

Each day of violation shall be deemed a separate offense. Violations may also result in a license or permit suspension of up to sixty (60) days, or license revocation.

Licenses or permits may also be revoked if any fine is not paid within ten (10) days of imposition by a final order from which all appeals have been exhausted. An order of the Department revoking a license or permit shall also specify when the licensee or permittee may reapply for a license, which shall be not less than ninety (90) days nor more than one (1) year from the date of revocation. Persons reapplying for licenses or permits after having their licenses or permits revoked shall apply pursuant to Department regulations as if they were new applicants not previously licensed or permitted.

(b) In addition to the penalties provided in subsection \_\_\_\_\_, the City is hereby authorized to remove any tour bus or amphibious tour vehicle that is in violation of subsection \_\_\_\_\_ and refuses to comply immediately with this Section upon written notice of violation. The licensee shall be immediately notified of the place where his property can be reclaimed and shall be entitled to claim his property immediately upon payment of the costs of removal.

(c) Any license or permit issued under this Section may also be revoked for any of the following reasons:

(.1) fraud, misrepresentation or knowingly false statement contained in the application for the license or permit;

(.2) fraud, misrepresentation or knowingly false statement in the course of carrying on licensed or permitted operations; or

(.3) fraud, misrepresentation or knowingly false statement contained in the written safety report.

(d) The Department of Public Works, the Police Department, the Code Enforcement Division, the Finance Department and the Parking Department shall have the power to effect compliance with this Chapter and any Regulations adopted hereunder.

### **Entertainment Tours**

Currently, entertainment tours are predominantly comprised of two operators, (1) Duck Tours and (2) Pirate Tours.

- (1) Duck Tours has been operating in the City for approximately ten years with a tour bus stop located on the Lincoln Road between Washington Avenue and James Avenue. A single bus stop serves as the one passenger loading area since tours start and end at the same location.
- (2) Pirate Tours has been operating for approximately one year with a tour bus stop located on Washington Avenue immediately adjacent to SoundScape Park. Again, a single bus stop serves as the one passenger loading area since tours start and end at the same location.

Both operators have received written approval from Miami-Dade Transit for the use of the



respective bus stop locations. Both operators have expressed an interest in operating on Ocean Drive and have requested curbside parking either on or immediately adjacent to Ocean Drive.

### **Ocean Drive Association**

The Ocean Drive Association (ODA) has endorsed the HH concept operating on Ocean Drive with the incorporation of appropriate regulations and enforcement. However, the ODA did not endorse entertainment tours operating on Ocean Drive. For purposes of this discussion, "operating" is defined as having a sales kiosk and passenger loading area on the City's right-of-way.

### **CONCLUSION**

The Administration is seeking guidance from the NCAC regarding sightseeing and tour bus operations. The TPC has requested that this issue be referred back to them after the NCAC has had an opportunity to review and discuss.

KGB/PDW/MAS/JG/SF

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Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discuss A Potential Public Basketball Court To Be Located Between 8<sup>th</sup> and 9<sup>th</sup> Streets, West Of The Dune, Near The Exercise Equipment.**

Commission Item C4L, June 5, 2013  
(Requested by Commissioner Libbin)

Eric Carpenter, Public Works Director

**ITEM #7**



# MIAMI BEACH

## COMMITTEE MEMORANDUM

TO: Neighborhoods/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **Discussion Regarding A Public Basketball Court In Lummus Park On The Sand Between 8<sup>th</sup> and 9<sup>th</sup> Streets.**

At the June 5, 2013, City Commission meeting the Mayor and City Commission referred a discussion of a public basketball court on the sand in Lummus Park to the Neighborhood/Community Affairs Committee.

### **BACKGROUND**

A resident of Miami Beach has offered to pay for the full cost of designing and constructing a basketball court to be located on the sand west of the dune near the exercise equipment located in the area between 8<sup>th</sup> and 9<sup>th</sup> Streets in Lummus Park.

Based on the City's current understanding of the concept this action would require a Coastal Construction Control Line (CCCL) Permit from the Florida Department of Environmental Protection (FDEP). Based on the fact that the court requires the installation of concrete or asphalt base, the project would need detailed survey and engineering plans to be created in order to initiate the FDEP permitting process.

If an organization or individual was interested in proceeding with the installation of a temporary court the requirements may be less stringent. Depending on the specifications, a temporary structure may not have to go through the lengthy CCCL permitting process and the City could apply for a field permit. The matter would need to be fully reviewed to determine the specific action steps necessary to permit the temporary court.

### **CONCLUSION**

The Administration requests a discussion of a public basketball court to be located on the sand west of the dune near the exercise equipment located in the area between 8<sup>th</sup> and 9<sup>th</sup> Streets in Lummus Park be held by the members of the Neighborhood/Community Affairs Committee and direction as how to proceed be given.

JLM/JMT/KS/ETC

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Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding The Continuation Of The Adopt A Beach Pilot Program.**  
Commission Item C4C, April 17, 2013  
(Requested by Commissioner Exposito)

Eric Carpenter, Public Works Director

**ITEM #8**





## COMMITTEE MEMORANDUM

TO: Neighborhoods / Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **Discussion Regarding the Continuation of the Adopt-a-Beach Pilot Program**

At the April 17, 2013 Commission Meeting, Administration referred a discussion regarding the continuation of the Adopt-a-Beach Pilot Program to the Neighborhood / Community Affairs Committee (NCAC). At the April 29, 2013 NCAC meeting, the Committee made a motion to have the Environmental Coalition of Miami and the Beaches (ECOMB) develop a letter of intent for the continued administration of the Adopt-a-Beach program.

### **BACKGROUND**

The main goals of an Adopt-a-Beach program are to create awareness about the importance of keeping the beaches and ocean free of litter and to support the preservation of a clean, safe, and healthy beach environment through the removal of litter.

On September 9, 2009, the City Commission adopted a resolution approving and authorizing the establishment of the Adopt-a-Beach Pilot Program for a period not to exceed one (1) year. Through this program, various groups such as local businesses, volunteer groups, and non-profit organizations adopted a specific section of beach to clean a minimum of four (4) times per year. The participation or sponsor fee of \$200 covered the cost of the clean-up materials (e.g. reusable buckets, biodegradable bags, cloth gloves, first aid kits, information booklets) and the program signage, to which a vinyl decal of the sponsoring organization's logo was affixed.

On December 9, 2009, the City signed a lease agreement with the Environmental Coalition of Miami and the Beaches (ECOMB) for the building located at 210 Second Street. Pursuant to the terms of the lease agreement (Attachment A – Portion of ECOMB's Lease Agreement), ECOMB agreed to coordinate the City's Adopt-a-Beach Pilot Program, whose operation and management was estimated to involve between 10 and 20 hours of staff time per week. ECOMB agreed to support this new initiative by relieving City staff of the time associated with implementing, coordinating and monitoring this program. However, City staff was assigned the responsibility of coordinating with ECOMB, providing the program's signage, collecting the sponsors fees, and purchasing all program materials.

### **ANALYSIS**

Since the program was launched in 2010, ECOMB's records show a total of 37 organizations registered for the program (Attachment B). However, only 27 organizations submitted their sponsor fees. The records also indicate that only 18 organizations conducted clean-ups, and of those 18, only four organizations completed the minimum number of clean-ups required. ECOMB has stated that it had difficulty obtaining the information required to properly track

sponsor participation during the pilot period and, therefore, the data provided may not reflect actual participation.

City staff's involvement in the program was greater than originally anticipated. It included developing program materials, collecting and managing funds, purchasing materials, assembling material packages, installing and maintaining signs, and responding to sponsor questions and concerns. The continuation of the program as it was initially developed will require a dedication of Public Works Environmental and Property Management Divisions staff hours.

At the April 29, 2013 NCAC meeting, the Administration recommended either terminating the program or that staff support to the program be reduced and that, subject to the City's supervision, ECOMB be responsible for completely administering the continuation of this program. The NCAC requested that ECOMB provide a letter of intent to administer the program, including any additional funding requirements needed from the City.

On August 14, 2013, ECOMB provided a letter of intent to completely manage and operate the Adopt-a-Beach program (Attachment C). ECOMB is proposing that the City pay ECOMB an annual fee of \$20,000 that will be used "to pay for the services of staff responsible for coordinating the Adopt-a-Beach program, a portion of operating costs, and material costs for implementing the program". In addition, ECOMB will collect annual sponsorship fees of:


- \$200 – non-profit organizations and/or schools;
- \$500 – for-profit businesses and/or individuals.
- A tiered discount program will be offered for existing for-profit/individuals that commit to a long-term contract. For example, if a sponsor commits to a 3-year contract they will pay \$200 in year one, \$350 in year two, and \$500 in year three.

All sponsorship proceeds would be retained by ECOMB. It should be noted, that any changes to the Adopt-a-Beach program will require amending ECOMB's lease agreement with the City for the 210 Second Street property.

### **CONCLUSION**

The above information is provided for discussion by members of the Neighborhoods / Community Affairs Committee.

Attachments: A. Portion of ECOMB's Lease Agreement  
B. Adopt-a-Beach Program Participation  
C. ECOMB's Letter of Intent

  
MT/ETC/JF/RWS/ESW



- 7.2 It is understood and agreed that the Demised Premises shall be used by the Tenant during the Term of this Agreement only for the above purpose(s)/use(s), and for no other purpose(s) and/or use(s) whatsoever. Tenant will not make or permit any use of the Demised Premises that, directly or indirectly, is forbidden by law, ordinance or government regulation, or that may be dangerous to life, limb or property. Tenant may not commit (nor permit) waste on the Demised Premises; nor permit the use of the Demised Premises for any illegal purposes; nor commit a nuisance on the Demised Premises. In the event that the Tenant uses the Demised Premises (or otherwise allows the Demised Premises to be used) for any purpose(s) not expressly permitted herein, or permits and/or allows any prohibited use(s) as provided herein, then the City may declare this Agreement in default pursuant to Section 18 or, without notice to Tenant, restrain such improper use by injunction or other legal action.
- 7.3 Tenant shall also maintain its not-for-profit status in full force and effect, and in good standing, throughout the Term herein.
- 7.4 Tenant's Performance Measures / Benchmarks and Public Benefits.  
As further consideration and inducement for the City to enter into this Agreement, Tenant agrees to provide the following public benefits on an annual basis throughout the Term of this Agreement:
- a) Clean-ups:  
Tenant shall be required to coordinate a minimum of twelve (12) clean-up events;
  - b) Educational Programming:  
Tenant is required to coordinate at least four (4) youth educational programs; and
  - c) Coordination of the City's Adopt-A-Beach (pilot) program:  
Tenant shall support this new City initiative, relieving City staff of the time associated with implementing, coordinating and monitoring this program, as approved by the City Commission on September 9, 2009, pursuant to Resolution 2009-27170. It is estimated that the implementation and management of this program would involve from 10-20 hours of City staff time per week. Tenant shall be responsible for administering the City's Adopt-a-Beach (pilot) program consistent with the policies and procedures approved by the City Commission, and in cooperation with the City's Environmental Services Division, to include:
    - Active marketing and promotion of the program to local organizations, neighborhoods, businesses, schools, etc. with the goal of securing no less than eight (8) sponsors;
    - Processing applications, designating locations and coordinating the appropriate signage with City staff;

- Coordinating the clean up schedule for all sponsors, including providing necessary materials for the cleanup days scheduled by the organizations; and
- Maintaining program records, such as sponsor information, the number of clean-ups per sponsor, the number of volunteers used per sponsor, the amount of trash collected by sponsors at each clean up, and whether the sponsors achieved the minimum requirements of sponsorship (minimum number of a cleanups per year). The City's Public Works Department will collect the sponsor fees and purchase all materials for the program.

8. Improvements.

The Building is designated as a "contributing structure" within the Ocean Beach Historic District, which may necessitate that improvements be approved by the Historic Preservation Board.

- 8.1 Tenant accepts the Demised Premises in their present "**AS IS**" condition and may construct or cause to be constructed, such interior and exterior improvements and maintenance to the Demised Premises, as reasonably necessary for it to carry on its permitted use(s), as set forth in Section 7; provided, however, that any plans for such improvements shall be first submitted to the City Manager for his prior written consent, which consent, if granted at all, shall be at the City Manager's sole and absolute discretion. Additionally, any and all approved improvements shall be made at Tenant's sole expense and responsibility. All permanent (fixed) improvements to the Demised Premises shall remain the property of the City upon termination and/or expiration of this Agreement. Upon termination and/or expiration of this Agreement, all personal property and non-permanent trade fixtures may be removed by the Tenant from the Demised Premises, provided that they can be (and are) removed without damage to the Demised Premises. Tenant will permit no liens to attach to the Demised Premises arising from, connected with, or related to the design and construction of any improvements. Moreover, such construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to the City. Any and all permits and or licenses required for the installation of improvements shall be the sole cost and responsibility of Tenant.
- 8.2 Notwithstanding Subsection 8.1, upon termination and/or expiration of this Agreement, and at City's sole option and discretion, any or all alterations or additions made by Tenant to or in the Demised Premises shall, upon written demand by the City Manager, be promptly removed by Tenant, at its expense and responsibility, and Tenant further hereby agrees, in such event, to restore the Demised Premises to their original condition prior to the Commencement Date of this Agreement.
- 8.3 The above requirements for submission of plans and the use of specific contractors shall not apply to improvements (which term, for purposes of this



# Adopt-A-Beach Data Card Information from June 2011 to August 2012

Section #	Locations	Company	Orientation Date	Number of Cleanups	Number of Volunteers	Number of Trash Bags	Number of Recycling Bags	Notes	Other Comments
1	Government Cut to South Pointe	SoFi K-9	8/12/2011	2	20	50			
		Gersten and Muir, P.A.	8/10/2011	0	0	0		No cleanups	
2	South Pointe Drive to 3rd Street	Douglas Elliman Florida	6/20/2011	5	50	18			
		Kulcha Shok Muzik, Inc.		0	0	0		Requested refund	
		TKSFIRST, LLC	6/20/2011	1	20			Bags collected not reported	
		Ely Bistrong Photography	40856	0	0	0		Cleanup scheduled 8/26	
3	3rd Street to 5th Street	SoBe Trekkers	6/20/2011	2	12	8			
		React Energy +	8/12/2011	0	0	0		Did not pick up materials because logo was not installed	
		Rotary Club of Miami Beach	2/8/2012	0	0	0		No cleanups	
		University of Miami Earth Alert	2/10/2012	0	0	0		New site coordinator	
4	5th - 10th Street	Miami Beach Kiwanis	6/22/2011	0	0	0		Waiting for information	
		Theta Chi at FIU	6/22/2011	0	0	0		No cleanups	
		Miami Beach Police Athletic League	8/10/2011	0	0	0		No cleanups	



Section #	Locations	Company	Orientation Date	Number of Cleanups	Number of Volunteers	Number of Trash Bags	Number of Recycling Bags	Notes	Other Comments
5	10th - 14th Street	Dream in Green	6/22/2011	0	0	0		No cleanups	
		Dream South Beach Hotel	6/22/2011	1	9	2			
		Whole Foods Market	6/20/2011	6	25	52			
		US Coast Guard Auxiliary Flotilla 6-11	6/22/2011	0	0	0		No cleanups	
		Cleveland Hotel and Essex House Hotels	6/22/2011	0	0	0		No cleanups	
6	14th - 15th Street	The Betsy South Beach	11/9/2011	2	15	5			
		Keep Paddlin' Inc.	2/8/2012	1	5	1			
8	16th - 17th Street	Loews Miami Beach Hotel	6/22/2011					Waiting for information	
		Sagamore, The Art Hotel						Never attended orientation	
9	17th - 18th Street	MAINFRIEIGHT	5/16/2012	1	6	1		Logo not installed	
		Global Spectrum at the Miami Beach Convention Center	8/12/2011	1	5	1			
10	18th - 19th Street	The Shore Club	6/20/2011	3	41	4			
11	19th - 21st Street	The Setai	6/20/2011	2	50	9			
		Collins Park Neighborhood Association	6/20/2011	1	8	5			

Section #	Locations	Company	Orientation Date	Number of Cleanups	Number of Volunteers	Number of Trash Bags	Number of Recycling Bags	Notes	Other Comments
12	21st - 22nd Street (Collins Park)	B/E Aerospace	8/12/2011	2	93	13			
13	22nd - 23rd Street	The Beach Channel		0	0	0			
		W South Beach	6/22/2011	0	0	0		No cleanups	
		Gansevoort Miami Beach	8/12/2011	0	0	0		New site coordinator	
		DECOBIKE	2/8/2012	0	0	0		Have not received supplies	
14	29th - 32nd Street	The Palms Hotel and Spa	6/22/2011	8	355	200			
		skybanditz	2/10/2012	0	0	0		Waiting for information	
16	53rd Street Beach (Ocean Beach)	The Tribe	6/22/2011	1	11	8			
17	64th Street Beach (Allison Park)	Surfrider, Miami Chapter	6/20/2011	1	20	5			
19	79th - 83rd Street (North Shore Open Space Park)	MACtown, Inc.	6/20/2011	2	25	15			
			TOTAL	42	770	397			

This letter ("**Letter of Intent**") constitutes a non-binding letter of intent outlining certain proposed terms by which ECOMB would be willing to enter into an agreement where ECOMB would take over the complete management and operation of the City of Miami Beach's Adopt-A-Beach program. The proposed terms and conditions of the agreement which are intended to be embodied in the Contract are defined below, and to be negotiated between ECOMB and the City of Miami Beach.

The terms and conditions proposed for the agreement are the following:

1. **Services to be provided by the City of Miami Beach:**
  - a. Installation of all new signs, or those that are damaged, or in need of replacement.
  
2. **Under the City's supervision, ECOMB will provide the following services:**
  - a. Oversee the marketing and sale of Adopt-A-Beach annual sponsorships to local business, individuals, non-profits, schools, and/or community organizations,
  - b. Collect, administer and track all program funds,
  - c. Purchase materials required for program implementation,
  - d. Monitor and enforce sponsors' minimum participation requirements,
  - e. Regularly assess the condition of program signage, report problems to the City,
  - f. Respond to all program inquiries, as well as sponsors' questions and concerns,
  - g. Submit quarterly progress reports to City of Miami Beach,
  - h. Establish guidelines and rules that outline Adopt-A-Beach sponsor obligations for participating in the program,
  - i. Oversee the Adopt-A-Beach program coordinator who we anticipate will work in excess of 20 hours per week.
  - j. Provide training to Adopt-A-Beach sponsors on correct rules and safety procedures for implementing beach clean-ups.

3. **Sponsorship Fees:**

- a. \$200 per year for non-profit organizations and/or schools
- b. \$500 per year for each For-profit business and/or individual
- c. A tiered discount program for Existing For-profit businesses and/or individual sponsors established prior to 2013, who commit to a long-term contract. For example, if an Existing sponsor commits to a 3- year contract they would pay \$200 in Year One, \$350 in Year Two, and \$500 in Year Three.
- d. Adopt-A-Beach sponsors who do not complete at least one cleanup within the first five months of becoming a sponsor, will have their logos removed from the program signage.

3) **Use of Sponsorship Sale Proceeds:** All proceeds received from the sale of Sponsorships will be paid directly to ECOMB and retained by ECOMB. ECOMB will provide the City with quarterly reports on the level of participation and total amount of sponsorships collected.

4) **Fee to Be Paid by City of Miami Beach:** In consideration of the time and effort required to operate the Adopt-A-Beach Program, the City of Miami Beach will pay to ECOMB an Annual Fee of \$20,000, for each year ECOMB directs the Adopt-A-Beach program. This fee will be used by ECOMB to pay for the services of staff responsible for coordinating the Adopt-A-Beach program, a portion of operating costs, and material costs for implementing the program.

5) **Term of Agreement:** ECOMB will have the exclusive right to operate the program for 3 years unless in violation of the agreement's terms.

6) **Amendments to ECOMB/City of Miami Beach Lease Agreement:** All mutually-agreed upon changes to the Adopt a Beach program shall be integrated into ECOMB's current Lease with the City, through Amendment to said document, and made prior to transferring oversight of the program to ECOMB.

6) **Termination of the Adopt-A-Beach Program:** In the event both parties fail to reach terms of Agreement, and agree to discontinue the Adopt-A-Beach program, ECOMB will not be held in default of its Lease Agreement with the City of Miami Beach. ECOMB and the City of Miami Beach may determine a replacement activity/project for the Adopt-A-Beach program requirement within the Lease Agreement and a new Amended Lease Agreement shall be issued.

6) **Exclusivity:** In consideration of ECOMB's efforts and expense in operating the Adopt-a-Beach program for the City of Miami Beach, and provided ECOMB upholds all terms of the Adopt-A-Beach Agreement, the city grants an Exclusive right to ECOMB for any Adopt-a-Beach programs within the City limits and offers ECOMB the exclusive right to operate any future similar programs to be offered in the city that offer sponsorships to "Adopt" any parks, waterways, coastline, and/or streets.



Sincerely,

Environmental Coalition of Miami and the Beaches (ECOMB)

By: \_\_\_\_\_  
Brian Scheinblum, Vice President

By: \_\_\_\_\_  
Gabriole Van Bryce, Treasurer

The foregoing Letter of Intent is hereby agreed and accepted.

AGREED and ACCEPTED

this \_\_\_\_ day of \_\_\_\_ 2013

\_\_\_\_\_

By: City of Miami Beach

Name: \_\_\_\_\_

Title:

Date:

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding The Permanent Closure Of The 400 Block Of Espanola Way  
Between Washington Avenue And Drexel Avenue**  
Commission Item, C4B September 11, 2013  
(Requested By Public Works)

Jose Gonzalez, Transportation Manager

**ITEM #9**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Neighborhoods/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

Date: September 30, 2013

SUBJECT: **DISCUSSION REGARDING THE PERMANENT CLOSURE OF THE 400 BLOCK OF ESPAÑOLA WAY BETWEEN WASHINGTON AVENUE AND DREXEL AVENUE.**

### **BACKGROUND**

Currently, the 400 Block of Española Way (between Washington Avenue and Drexel Avenue) is closed from 6:00 PM to 5:00 AM every day and functions as a pedestrian mall with numerous sidewalk cafes, retail venues, and restaurants. When open to traffic, the 400 Block operates as a one-way street in the westbound direction only.

In May 2012, City officials attended an Española Way merchants meeting with representatives of property owners and business owners. At the meeting, Española Way merchants requested the extension of the street closure duration from 11:00 AM to 6:00 AM in order to enhance the commercial viability of the corridor and improve pedestrian safety; thus, this one block of portion Española Way would be closed to traffic for nineteen hours each day. During this meeting, the City was informed that most deliveries occur from Drexel Avenue and Washington Avenue because trucks cannot operate safely on Española Way. Based on the input from the merchants, the City committed to conducting a traffic study in order to evaluate the impact of the full closure of the 400 block of Española Way on the community and the adjacent roadway network.

In February 2013, City staff met with representatives and property owners of the 400 Block of Española Way to discuss the requirements for the street closure. During this meeting, the representatives and property owners were advised of the process to be followed pursuant to the County's Traffic Flow Modifications/Street Closure procedure. Essentially, the process consists of the following six (6) steps:

1. A traffic study must be conducted to identify the impacts (if any) of the street closure on the adjacent properties and roadway network.
2. Ballots must be completed by property owners affected by the proposed closure and concurrence must be obtained from two-thirds (2/3) of all respondents.
3. City review and approval, including Fire, Police and Public Works Departments.
4. A public meeting to inform property owners regarding the proposed closure.

5. A City Commission Resolution approving the street closure (Resolution may override ballot results).
6. Approval from the Miami-Dade County Public Works and Waste Management Department

### **ANALYSIS**

In May 2013, the City initiated the balloting process. Ballots were mailed to 53 properties within the area bounded by 14<sup>th</sup> Street on the south, 15<sup>th</sup> Street on the north, Washington Avenue on the east and Pennsylvania Avenue on the west. Over two-thirds (2/3) of the respondents voted in favor of the street closure, thus meeting one of the required criteria for closure.

The City has engaged a traffic engineering firm to conduct the required traffic study. At this time, the traffic consultant is evaluating the data collected to identify any impacts and determine if the closure is feasible. In the coming weeks, staff will be meeting internally with the City's Fire and Police Departments to obtain input on the closure and present optional treatments for closure. Subsequently, the City will host a public meeting with property owners and tenants/residents of the 400 Block of Española Way to present its findings and recommendations regarding the closure.

As stated above, as part of the closure process, Miami-Dade County Public Works and Waste Management Department, the entity with jurisdiction over traffic flow modifications and street closures throughout the County, must review and approve the traffic study, ballot results, and recommended method of closure if the closure is found to be feasible.

### **CONCLUSION**

The following is presented to the members of the Neighborhood and Community Affairs Committee for consideration and further discussion.



KGB/ETC/JRG/JFD

F:\Fiorella Sarmiento\NCAC Folder\Espanola Way Permanent Closure MEMO



Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion regarding Recycling Ordinance Amendment Recommended By The  
Sustainability Committee, Which Changes The Number Of Multifamily Units Required  
To Recycle From Nine Or More Units To Two Or More Units**

Commission Item C4P, September 11, 2013  
(Requested By Commissioner Jerry Libbin)

Eric Carpenter, Public Works Director

**ITEM #10**



## COMMITTEE MEMORANDUM

TO: Neighborhoods / Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

DATE: September 30, 2013

SUBJECT: **Discussion Regarding Amending Multifamily Residential Recycling Requirements**

At the September 11, 2013 Commission Meeting, discussion to amend Section 90-340 to require multifamily residences that are between two (2) and eight (8) dwelling units provide a single-stream recycling program was referred to the Neighborhood / Community Affairs Committee (NCAC).

### **BACKGROUND**

At the June 6, 2012 City Commission meeting, the City Commission adopted Ordinance No. 2012-3768 mandating that multi-family residences with nine (9) units or more, as well as commercial establishments implement a recycling program by July 1, 2013.

Per the ordinance, over the last year staff has conducted targeted outreach to the condominium and business community and has launched a public education campaign through various local media outlets. Since January 1, 2013, multifamily and commercial establishments that do not have a recycling program serviced by a licensed recycling contractor or that fail to separate recyclable material from the solid waste stream have been subject to warnings.

During this warning period, a number of multifamily residences with between two (2) and eight (8) units questioned whether the law required multifamily residences with eight (8) units or less to have a single-stream recycling program. The ordinance requires that all multifamily residences with nine (9) units or more contract with a private hauler for single-stream recycling service. Currently, multifamily residences with eight (8) units or less have the option to contract with a private solid waste and recycling provider or to contract with the City for solid waste and single-stream recycling service. Customers that chose to contract with a private company have more flexibility regarding the service provided, including the number of pick-ups, bin size and collection location (i.e., curbside or back of house). While, the County requires multifamily residences with eight (8) or less to provide a recycling program, if these residences chose not to contract with the City for solid waste and recycling service, the City Code does not require these buildings to provide a recycling program.

At the July 19, 2013 City Commission meeting, it was requested that the Commission consider the Sustainability Committee's recommendation to require multifamily residences that are between two (2) and eight (8) dwelling units to provide a single-stream recycling program. The proposed amendments are provided in Attachment A.

Single-stream recycling is a recycling method that allows for all recyclable materials to be comingled and placed in the same container, making it easier for individuals to efficiently recycle. In addition, single-stream recycling provides for more items to be recycled, including plastic, glass, aluminum, steel, aseptic containers, cardboard, and paper. The separation of recyclables at the source is most cost-effective when it occurs for large quantities of a recyclable material, such as cardboard in commercial establishments.

The City of Miami Beach has committed to creating a more sustainable community. Recycling diverts waste from the landfill and conserves natural resources. Attachment B provides a flow chart of both the City and County's requirements for single-family homes, multifamily residences, and commercial establishments. Currently, the City provides single-stream recycling service to all single-family homes and the City Code establishes recycling regulations for commercial facilities and multifamily residences with nine (9) units or more. However, there are a number of multifamily residences with two (2) to eight (8) units that do not contract with the City for solid waste and recycling service. While they are required to recycle per the County Code, the City does not have the ability to enforce when a property owner is non-compliant. The proposed amendment will close this loophole and will further encourage more properties to establish a recycling program for their residents.

### **CONCLUSION**

The above information is provided for discussion by members of the Neighborhoods / Community Affairs Committee.

Attachments: A. Recycling Ordinance Proposed Amendments  
B. City & County Recycling Requirements Flow Chart

 MT/ETC/JF/RWS/ESW

\\miamibeach.gov\files\WORK\ALL\1 EMPLOYEE FOLDERS\BETSY WHEATON\NCAC\Recycling NCAC Memo 9.30.13.docx

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90 OF THE MIAMI BEACH CITY CODE, ENTITLED "SOLID WASTE," BY AMENDING ARTICLE V, ENTITLED "CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS," BY AMENDING SECTION 90-340, ENTITLED "RECYCLING PROGRAM AND SEPARATION OF RECYCLABLE MATERIALS FROM SOLID WASTE STREAM REQUIRED FOR MULTIFAMILY RESIDENCES OF NINE (9) DWELLING UNITS OR MORE; OWNER/ASSOCIATION LIABILITY; RECYCLING CONTRACTORS' ASSISTANCE," TO APPLY TO MULTIFAMILY RESIDENCES OF TWO (2) OR MORE DWELLING UNITS; PROVIDING FOR REPEALER SEVERABILITY, CONDIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the recycling of recyclable materials is in the best interest of the environment, City residents, and in maintaining the City's prominence as a world class resort destination; and

**WHEREAS**, by managing solid waste and conserving material resources through reduction, reuse, and recycling, the City will help minimize impacts to the quality and safety of the local environment, reduce costs of waste disposal, and decrease the carbon footprint associated with the production use, and disposal of materials; and

**WHEREAS**, pursuant to the adoption Ordinance No. 2012-3768 (the "Ordinance"), the City established a Citywide Recycling Program for multifamily residences with nine (9) dwelling units or more and commercial establishments that provides standards that are equivalent to or exceed the minimum recycling requirements of Miami-Dade County; and

**WHEREAS**, multifamily residences with eight (8) or less dwelling units are not currently required to provide a recycling program or to use a single stream recycling process under the Ordinance; and,

**WHEREAS**, at the July 19, 2013 City Commission meeting, it was requested that the Commission consider the Sustainability Committee's recommendation to include residences that are between two (2) and eight (8) units within the requirements of the Ordinance.

**NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.** That Article V, entitled "Citywide Recycling Program for Multifamily Residences and Commercial Establishments," of Chapter 90 of the Miami Beach City Code, entitled "Solid Waste," is hereby amended as follows:



## CHAPTER 90

### SOLID WASTE

\* \* \*

#### ARTICLE V.

#### CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS

\* \* \*

**Sec. 90-340. Recycling program and separation of recyclable materials from solid waste stream required for multifamily residences of ~~nine (9) dwelling units or more~~ two (2) or more dwelling units; owner/association liability; recycling contractors' assistance.**

(a) As of January 1, 2013, every multi-family residence of ~~nine (9) dwelling units or more~~ two (2) or more dwelling units shall provide a recycling program pursuant to this section or a City approved modified recycling program pursuant to section 90-344. The property owner shall be liable for the failure to provide a recycling program or a modified recycling program approved by the City, provided, however that a condominium or cooperative apartment having a condominium association or a cooperative apartment association shall be liable, rather than the individual unit owner(s), for a violation of this subsection. Further, recycling contractors shall assist and provide written notice to the director of public works in identifying multifamily residences subject to this article which do not have a recycling program or, in the alternative, which have allowed a recycling program to lapse or expire.

(b) As of January 1, 2013, every multi-family residence of ~~nine (9) dwelling units or more~~ two (2) or more dwelling units shall be required to use a single stream recycling process to separate, from all other solid waste, the five (5) following recyclable materials:

- 1) Newspaper. Used or discarded newsprint, including any glossy inserts;
- 2) Glass. Glass jars, bottles, and containers of clear, green or amber (brown) color of any size or shape used to store and/or package food and beverage products for human or animal consumption, and/or used to package other products, which must be empty and rinsed clean of residue. This term excludes ceramics, window or automobile glass, mirrors, and lightbulbs;
- 3) Metal food and beverage containers. All ferrous and nonferrous (i.e., including, but not limited to, steel, tin-plated steel, aluminum and bimetal) food and beverage containers (i.e., including, but not limited to, cans, plates, and trays) of any size or shape used to store and/or package food and beverage products suitable for human or animal consumption, which must be empty and rinsed clean of residue;
- 4) Other metal containers. All other ferrous and non ferrous containers used to package household products including, but not limited to, paint cans and aerosol cans, which must be empty and rinsed clean of residue;
- 5) Plastics. All high density polyethylene (HDPE) and/or polyethylene terephthalate (PET) bottles, jugs, jars, cartons, tubs, and/or other containers, and lids, of any size or shape used to package food, beverages, and/or other household

products, or crankcase oil, which must be empty and rinsed clean of residue. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (i.e., toys), and plastic foam materials; and

(c) Every multi-family residence of ~~nine (9) dwelling units or more~~ two (2) or more dwelling units shall be serviced by a recycling contractor licensed by the city and state.

## **SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

## **SECTION 3. SEVERABILITY.**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

## **SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

## **SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**ATTEST:**

\_\_\_\_\_  
RAFAEL E. GRANADO, CITY CLERK

\_\_\_\_\_  
MAYOR MATTI HERRERA BOWER

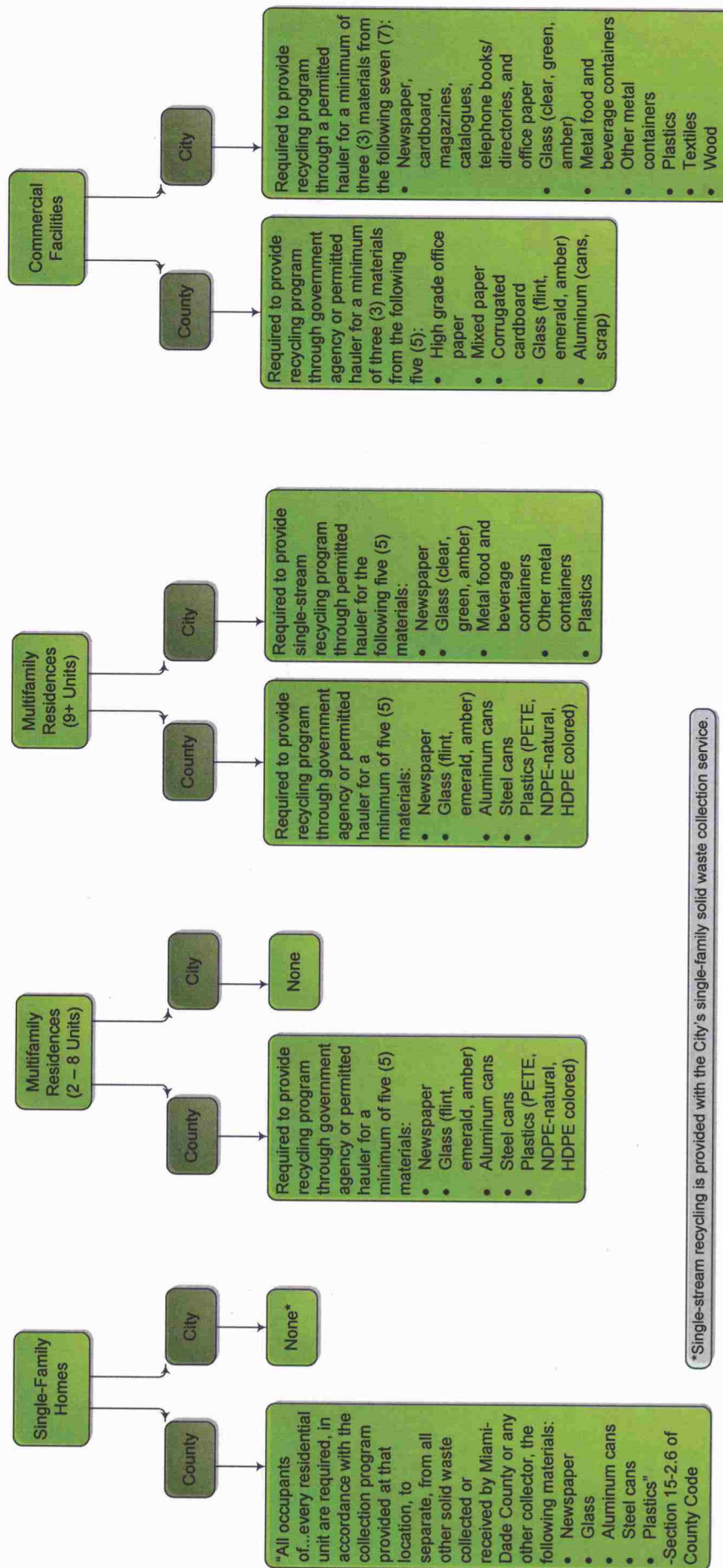
(Sponsored by Commissioner Jerry Libbin)

Underline denotes additions and ~~Strike through~~ denotes deletions.

T:\AGENDA\2013\September 11\Recycling Program Ordinance 2013 - Amending Sec 90-340.docx

## Recycling Requirements By Sector

### Miami-Dade County and City of Miami Beach



\*Single-stream recycling is provided with the City's single-family solid waste collection service.

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding A Barrier With Foliage Be Installed By FDOT In The Meridian On  
41<sup>st</sup> Street From Alton Road To Meridian Avenue Within Two Years From The  
Completed FDOT Traffic Study**

Commission Item R9N, September 11, 2013  
(Requested By Commissioner Michael Gongora)

Jose Gonzalez, Transportation Manager

**ITEM #11**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Neighborhood/Community Affairs Committee

FROM: Jimmy L. Morales, City Manager

Date: September 30, 2013

SUBJECT: **FDOT 41<sup>st</sup> Street Pedestrian Safety Study and Nautilus Middle School Crossing**

This item was referred to the Neighborhood/Community Affairs Committee for discussion by Commissioner Michael Gongora at the City Commission meeting on September 11, 2013.

### **BACKGROUND**

Pursuant to motions passed by the Committee for Quality Education (QEC) in 2012 regarding concerns with the safety of students from Nautilus Middle School crossing 41<sup>st</sup> Street, City staff requested that the Florida Department of Transportation (FDOT) conduct a traffic signal warrant analysis study to evaluate a new pedestrian signal and crosswalk at Jefferson Avenue as well as the relocation of the existing signal at Garden Avenue to Jefferson Avenue. Both scenarios were found to be unwarranted due to geometric constraints at 41<sup>st</sup> Street and Jefferson Avenue. Of particular concern to FDOT is the proximity of the existing signal at Meridian Avenue to Jefferson Avenue and the existing horizontal curve at Meridian Avenue which limits visibility for motorists traveling westbound and affects stopping-sight distance and, thus, reaction time for motorists to stop for pedestrians in the crosswalk. In addition, the data collected by FDOT concluded that the existing volume of pedestrians and crashes occurring at Jefferson Avenue and 41<sup>st</sup> Street over a three-year period did not meet minimum thresholds established by the Manual on Uniform Traffic Control Devices (MUTCD). FDOT District Six Traffic Operations Safety Office shared the traffic analysis with FDOT Central Office in Tallahassee for consideration and Central Office agreed with the District's study findings and recommendations.

The FDOT study encouraged the use of crossing guards or Police to assist students crossing at Jefferson Avenue. The study further recommended that an educational campaign be deployed to instruct children on safe crossing techniques and to encourage students to cross at the signalized intersection at Garden Avenue.

In an effort to address the Committee's outstanding concerns, in 2013, FDOT conducted a comprehensive corridor safety study to evaluate the safety of pedestrians and motorists along the 41<sup>st</sup> Street corridor from Alton Road to west of Pine Tree Drive. The study evaluated each intersection along the corridor and the intersection of 41<sup>st</sup> Street and Jefferson Avenue in particular. The study evaluated all types of crashes along the corridor from 2008 – 2010. The study, however, did not evaluate an expansion of the existing North Beach Elementary school zone on 41<sup>st</sup> Street to include Nautilus Middle School.



## **ANALYSIS**

The FDOT pedestrian safety study recommended the following safety improvements to discourage pedestrians from crossing mid-block at unsignalized locations along 41<sup>st</sup> Street. See Attachment.

- Installation of a raised median with a pedestrian-scale fence and landscape features along the corridor
- Installation of French barricades along the sidewalk or between the south sidewalk and the curb (in front of the Burger King).
- Providing high density landscape along 41<sup>st</sup> Street between Garden Avenue and east of Jefferson Avenue between the sidewalk and back of curb to physically restrict mid-block crossings.
- Installation of signs directing pedestrians to use crosswalks.
- Trimming landscaping on the south side of the roadway for better visibility exiting driveways.
- Installation of 'Do Not Enter' signs facing southbound on Jefferson Avenue.
- Improvement of street name signs

The draft FDOT pedestrian safety study has been reviewed by the Miami Beach Police, Fire, and Public Works Departments as well as Miami-Dade County Public Works and Waste Management Department. Due to the frequent need of emergency vehicles to use 41<sup>st</sup> Street to access Mount Sinai Hospital, the City's Fire Department does not support a raised median along the entire stretch of 41<sup>st</sup> Street; however, Fire Department would support a raised median with a pedestrian scale fence and landscaping only at Jefferson Avenue in order to serve as a physical deterrent to student crossing 41<sup>st</sup> Street illegally at that location.

The City's and County's Public Works Departments have a mutual concern regarding the limited effectiveness of the proposed raised median. While the pedestrian-scale fence in the median may deter some students from crossing at mid-block locations, other students who may choose to cross illegally may be exposed to greater risk by attempting to navigate around the fence to find refuge at the unobstructed ends of the median where only a raised concrete traffic separator would exist.

## **RECOMMENDATION**

City staff will communicate to FDOT its concerns regarding the limited effectiveness of the proposed raised median with a pedestrian scale fence and landscape features and will continue to work with FDOT to explore additional options that would more effectively deter Nautilus Middle School students from crossing 41<sup>st</sup> Street and enhance pedestrian safety in the vicinity of the school.

Currently, City Police resources have been assigned to assist with directing Nautilus Middle School students to cross at Garden Avenue and at Meridian Avenue. In addition, a City-funded school patrol liaison and a Miami-Dade County School Board police officer provide assistance during morning drop-off hours. The use of resources on a sporadic basis is intended to be a short term measure as it presents a burden on available City Police resources.

As a long term and more sustainable safety measure, the City has requested that FDOT evaluate the possibility of extending the existing school zone for North Beach Elementary to include Nautilus Middle School and is awaiting a response from the FDOT in this regard. Further, City staff is working with the school administration to implement a more sustainable solution to the issue such as instituting a policy that restricts students from leaving school premises before and after school hours.

Attachment:

Proposed Conditions Diagram – Arthur Godfrey Road from Alton Road to Meridian Avenue

  
KGB/ETC/JRG

F:\WORK\ALL\1) EMPLOYEE FOLDERS\Jose R Gonzalez\NCAC\NCAC Memo RE FDOT 41<sup>st</sup> Street Pedestrian Safety Study and Nautilus Middle School Crossing.doc

Neighborhood/Community Affairs Committee Meeting  
September 30, 2013

**Discussion Regarding The Normandy Shores North Guardhouse On Bay Road**  
Commission item,  
(Requested by Commission Ed Tobin)

Eric Carpenter, Public Works Director

**ITEM #12**



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, [www.miamibeachfl.gov](http://www.miamibeachfl.gov)

## COMMITTEE MEMORANDUM

TO: Neighborhood / Community Affairs Committee

FROM: Jimmy Morales, City Manager

DATE: September 30, 2013

SUBJECT: **DISCUSSION REGARDING THE NORMANDY SHORES NORTH GUARDHOUSE ON BAY ROAD**

### BACKGROUND

At the December 12, 2012 Commission Meeting a referral by Edward Tobin to the Neighborhoods/Community Affairs Committee (NCAC) was made to discuss building a guardhouse at the east entrance of Normandy Shores.

### ANALYSIS

The location of the guardhouse would be on the north of the Bay Road Bridge and south of the intersection of South Shore Drive. The guardhouse would be similar in design and location as to the one located at North Shore Drive (see Attachment A).

The area that would have primary benefit of this security feature would be South Shore Drive from Ray Street to Bay Road and from the bridge to the Fairway Drive intersection. This area encompasses approximately 340 existing multi-family units and 60 (estimated) multi-family units in a proposed development.

The City of Miami Beach has completed construction of a guardhouse for Sunset Islands 3 & 4. This project is similar in scope to the design and construction of a guardhouse for Normandy Shores. The proposed guardhouse would be located at the right-of-way (ROW) line of Bay Road between South Shore Drive and the Bay Road Bridge (see Attachment B). The estimated cost for design and construction would be \$90,000 with the yearly maintenance cost including, electricity, security guard, and incidentals of \$175,000 per year. The capital cost per unit would be \$225.00 to build the guard house. The cost of maintenance would be approximately \$432 annually.

### CONCLUSION

The following is presented to the members of the NCAC for consideration and further discussion.

Attachments: A. North Shore Drive guard house  
B. Proposed Bay Drive guard house location



KGB\ETC\DS

## Attachment A

North Shore Drive Guard House





Proposed Bay Drive Guard House Location



**NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE PENDING ITEMS**

**FOR INFORMATION PURPOSES ONLY**

Item #	Commission Referral Date	Title	Referred By	Date Last Heard at NCAC	Comments
1	Item R9G, April 14, 2010	Discussion Regarding Belle Isle Traffic And Parking Conditions.	Commissioner Wolfson	April 27, 2010	Last discussed at NCAC April 27, 2010 – Pending (Remaining topic to have legal prepare a reso for Commission to be notified in the event of a repair or dispute that diminishes services to the community that can be cured pending resolution of the issue).
2	Item C4C, June 1, 2011	Consideration And Discussion Of Proposed Amendments To The City's Noise Ordinance.	City Attorney's office	June 26, 2013	Last Discussed at NCAC June 26, 2013, New Committee to be created and discuss item then bring back to NCAC.
3	Item R7A, January 11, 2012	Discussion Regarding A Resolution Granting And Authorizing The Mayor And City Clerk To Execute An After-The-Fact Revocable Permit To Asr Berwick Family Ltd Partners, As Owner Of The Commercial Property Located At 335 West 47 <sup>th</sup> Street, To Retain A/C Units, A Utility Room, And A Trash Enclosure, Currently Placed Within The Public City Right-Of-Way On West 47 <sup>th</sup> Court.	City Commission	May 22, 2012	Deferred to a future meeting of the NCAC pending further discussions amongst interested parties regarding issues related to parking
4	Item R9H, June 6, 2012	Discussion Regarding Commercial Use Of Residential Property	Commissioner Tobin		Per JGG this is on hold pending Legal
5	Item R7B, October 24, 2012	Discussion Regarding The Establishment Of The City's Ticket Policy	City Manager's Office		
6	Item C4G, December 12, 2012	Discussion Regarding Equitable Distribution Of City Resources To Beautify Neighborhoods	Commissioner Tobin		To return to NCAC October meeting
7	Item C6A, April 17, 2013	Status Update For The Beach Walk From Sunrise Plaza To Firth Street.	Commissioner Gongora		To return to NCAC October meeting
8	Item C4I, May 8, 2013	Discuss the FDOT Alton Road Project Between 6 <sup>th</sup> and Michigan.	Commissioner Tobin		To return to NCAC October meeting
9	Item C4M, June 5, 2013	Discuss Safety And Water Sports In Residential Areas On Miami Beach.	Commissioner Tobin		To return to NCAC November meeting
10	Item R5C, June 5, 2013	An Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts," Creating Division 8 "Alton Road – Historic District Buffer Overlay," By Including Section 142-858 "Location And Purpose," And Section 142-859 "Development Regulations," Including Among Other Provisions			Last discussed at the July 29 <sup>th</sup> NCAC meeting. Bring back in October once discussed with our City Attorney's office

		Regulations On Maximum Floor Area Ratio; Maximum Building Height; Minimum Setbacks; Building Separation; Demolition Or Additions To Contributing Buildings In An Historic District; And Land Use Regulations For Location Of Retail Uses, Restaurants, Bars, Entertainment Establishments, Alcoholic Beverage Establishments And Similar Uses; Requiring Conditional Use Approval Of Such Uses In Excess Of 10,000 Sq. Ft.; And Prohibiting Alcoholic Beverage And Entertainment Establishments In Open Areas With Exceptions As Prescribed In The Ordinance; Providing For Codification; Repealer; Severability; And An Effective Date. <u>5:00 p.m. First &amp; Only Reading Public Hearing</u>			
11	Item C4I, September 11, 2013	Discussion Regarding The Possible Renaming Of 21 <sup>st</sup> Street, From Miami Beach Drive To Washington Avenue, As "Collins Park South" And 22 <sup>nd</sup> Street, From Miami Beach Drive To Dade Boulevard, As "Collins Park North"	Mayor Matti Herrera Bower		Pending October 2013.
12	Item C4M, September 11, 2013	Discussion Regarding The Disability Access Committee's Motion In Regards To Alternative Leaf Blowers	Commissioner Gongora		Pending October 2013.
13	Item R7Q, September 11, 2013	Discussion Regarding The Ranking Of Proposals, Pursuant To Request For Proposals (RFP) No. 95-2013ME, For The Comprehensive Professional Tennis Management And Operations Services At The City's Flamingo And North Shore Park Tennis Centers	Parks & Recreation/Procure ment Departments		Pending October 2013
14	Item R9I, September 11, 2013	Discussion Regarding Consideration Of Creating A Mural Wall Area In North Beach Similar To The Wynwood Walls In The City Of Miami Where Artists Would Be Able To Express Themselves	Commissioner Gongora		Pending October 2013
15	Item C4D, September 11, 2013	Discussion Regarding Water Taxi Proposal			Pending October 2013